

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09cv423**

JERRY ANDERSON,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
CALDWELL COUNTY SHERIFF'S)	
OFFICE, et al.,)	
)	
Defendants.)	
)	

Previously, the Court granted Defendants' Third Motion to Compel and ordered Plaintiff to supplement the expert report Plaintiff provided to Defendants. (Order, Jun. 13, 2011.) Pursuant to Rule 37, the Court also directed Plaintiff to show cause in writing why the Court should not should not award Defendants their costs, including their reasonable attorneys' fees, for bringing the Third Motion to Compel. Plaintiff complied with the Court's Order and filed a written response [# 147]. Upon a review of Plaintiff's response and the docket in this case, the Court finds that an award of costs is not warranted under Rule 37(a)(5)(A) because Plaintiff's failure to comply with the requirements of the Federal Rules was substantially justified and the circumstances make an award of expenses unjust. Accordingly, each side shall bear their own costs as to the Third Motion to Compel [# 91].

Signed: July 12, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

